

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 -against-

6 JEFFREY WEBB, ET AL.,

7 Defendant.

15-CR-00252 (PKC)

United States Courthouse
Brooklyn, New York

December 26, 2017
9:00 a.m.

8 -----x
9 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
10 BEFORE THE HONORABLE PAMELA K. CHEN
11 UNITED STATES DISTRICT JUDGE
12 BEFORE A JURY

12 APPEARANCES

13 For the Government:

BRIDGET M. ROHDE, ESQ.
Acting United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
BY: SAM P. NITZE, AUSA
M. KRISTIN MACE, AUSA
KEITH D. EDELMAN, AUSA

18 For Defendant 23
Manuel Burga

BRUCE L. UDOLF, ESQ.
HULDA ESTAMA, ESQ.
500 East Broward Boulevard
Suite 1400
Fort Lauderdale, Florida 33394

21 Court Reporter:

Georgette K. Betts, RPR, CSR, OCR
Phone: (718)804-2777
Fax: (718)804-2795
Email: Georgetteb25@gmail.com

24 Proceedings recorded by mechanical stenography. Transcript
25 produced by computer-aided transcription.

GEORGETTE K. BETTS, RPR, CSR
Official Court Reporter

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1 (In open court; jury not present.)

2 THE COURT: Good morning. I hope everyone had at
3 least some rest over the long weekend and a good holiday if
4 you celebrate.

5 As you know, we're back here to first address the
6 note that we received from the jury, the second note after
7 their partial verdict note in which they asked a specific
8 question about how to apply the racketeering charge in Count
9 One -- or the instructions for the racketeering charge in
10 Count One. The parties got together and crafted an
11 instruction for me to give the jury. I just want to make sure
12 that everybody is still in agreement on it and make sure that
13 I understand exactly all of it. Go ahead.

14 MR. UDOLF: Judge, over the weekend I had an
15 opportunity to think on this a little more rather than just
16 giving an opinion on the fly. It still concerns me that in
17 note number 20 they said that they were unable to reach a
18 verdict and then at least on the surface note 21 seemed to
19 contradict that. So I think before we answer note 21 we ought
20 to at least resolve with the jury whether or not the situation
21 still remains that they feel like they're deadlocked.

22 THE COURT: Well, they didn't use the word deadlock.

23 MR. UDOLF: They said they weren't able to reach a
24 verdict.

25 THE COURT: Right, but almost -- not almost

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1 immediately but certainly within an hour while we were
2 debating about what to do on the first note, which was note
3 20, they sent out this note 21 which made it clear that they
4 were still considering Count One as to I think a fair
5 inference Mr. Burga, because they had already reached their
6 verdicts on all of the other counts save this one and then
7 when they sent out this note it became clear that the one
8 count they were still debating was Count One and when they
9 delivered their partial verdict it became even clearer that
10 the only defendant as to who they hadn't reached a verdict was
11 Mr. Burga on Count One.

12 So to me I think the fair inference is that this is
13 the count that they had been unable to reach a verdict on, but
14 clearly something happened in the interim during the period
15 when we were still debating about how to respond to one or
16 both notes, and it seemed evident by virtue of their note that
17 they were saying they are still considering Mr. Burga for
18 Count One and that the source, I would infer, of their
19 inability, albeit temporary on reaching a verdict as to him on
20 that count had to do with this need for clarification on how
21 to apply the racketeering conspiracy statute or instruction.
22 So --

23 MR. UDOLF: I guess, Judge, by agreeing to or trying
24 to come up with an answer to that second question, the
25 question to number 21, I want to make sure I didn't waive my

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1 right to move for a mistrial based on the communication from
2 note 20. I think it's note 20.

3 THE COURT: No, you can certainly move for a
4 mistrial. I'm going to deny that request. I think the only
5 practical difference, though, even if I agreed with you that I
6 should do something more in responding to their prior note
7 number 20 about not being able to reach a verdict, would be --
8 and you suggested this on Friday -- to give them an Allen
9 charge, because I certainly wouldn't end the deliberations now
10 especially in light of note number 21 which makes it clear
11 that they are still considering Count One as to Mr. Burga.
12 And I still don't think, given the sequence of events
13 especially the short time frame between their first note
14 saying they couldn't reach a verdict and then their second
15 note asking for clarification about Count One, when it's clear
16 they had already resolved Count One as to the other two
17 defendants and it's worth noting that we didn't respond to
18 note 21 until after they rendered their verdicts on the other
19 two defendants. So you can't even infer that they were still
20 debating Count One as to all three defendants, rather the
21 logical way to construe or interpret their notes is we've
22 reached all the verdicts as to the two defendants on all the
23 counts and the only thing they were still debating is Count
24 One as to Mr. Burga. So I'm going to reject your suggestion
25 that I ask them anything more.

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1 I gave them a pretty clear instruction on Friday
2 that they were to come back to further deliberate on Mr. Burga
3 as to Count One which seems to be the only remaining issue.

4 MR. UDOLF: As to whether or not an Allen charge
5 should be given, I think my position is now that at this point
6 it should not be given and the only thing I would ask in
7 addition to the proposals that were made on I guess it was
8 Friday, is that I think there's something -- my concern is
9 that if the Court just directly answers the question without
10 referring them to other pages in the charge the possibility of
11 that we may have a fait accompli in terms of a guilty verdict
12 is very real to me.

13 THE COURT: Well, I think there might be a fait
14 accompli, you're right, but only because I'm telling them the
15 answer to the question that they asked that clearly seems to
16 be the impediment to reaching a verdict, but, secondly, and
17 this is what I was going to talk with you about today, part of
18 the requested instruction that the parties agreed on is
19 referring them back to portions of the jury charge
20 specifically pages 33 through 38 and then focusing them on the
21 bottom of page 33 to the first page of 34. I think that's my
22 recollection. But I did want to clarify that with everybody
23 because I have a two-sided instruction, so I want to make sure
24 that everyone recalls that that was going to be part of the
25 instruction.

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1 MR. UDOLF: That's my recollection.

2 THE COURT: Okay.

3 MR. UDOLF: And I would further ask you call the
4 jury's attention to the instructions regarding conspiracy on
5 page 22 of the charge as well.

6 THE COURT: Okay. Hang on one second. So everyone
7 can take a look at page 22. The part about mere knowledge or
8 acquiescence not being enough.

9 MR. UDOLF: The paragraph before that as well.

10 THE COURT: Mere presence.

11 MR. UDOLF: Right.

12 THE COURT: So you want me to also say, I also
13 remind you about pages 22 and 33 through 38 or -- and then,
14 again at the end of this instruction, just so everyone
15 remembers, I will remind them they should not single out any
16 one instruction, it seems contrary to what I'm going to tell
17 them to do, but nonetheless I think I will finish with the,
18 remember you have to consider the instructions as a whole.

19 MR. NITZE: Two points. First, I think there was
20 also, at Mr. Udolf's request, a reference to paragraph on
21 page 36 in the specific paragraph referred to --

22 THE COURT: Yes.

23 MR. NITZE: -- you mentioned the bottom of 33, was
24 there also 36?

25 THE COURT: Yes, there was. So I didn't finish.

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1 The agreed upon instruction was, I refer you to the
2 instructions concerning the fifth element of racketeering
3 conspiracy on pages 33 through 38 of the instructions. In
4 particular, the bottom of page 33 to the first paragraph of 34
5 and the first two paragraphs at the top of 36.

6 MR. NITZE: Okay. And so, relatedly, I guess, I
7 mean those paragraphs have been selected because they balance
8 one another and we do think it's good that the Court is also
9 advising the jury to consider the instructions as a whole, but
10 with respect to conspiracy to just refer to the mere presence
11 paragraph we would object to. So we would ask that they just
12 be referred to the conspiracy instruction starting on page 19
13 and going through 22, which would include the paragraph
14 Mr. Udolf is referring to.

15 THE COURT: That's all right, I'm going to overrule
16 the government's objection. I understand your concern in this
17 particular moment. I will say this, the government is not
18 wrong in that what you want me to reference them to has
19 nothing to do with the question that they asked, but you have
20 I think more of a concern about creating some momentum towards
21 a verdict. Nonetheless, I will add a reference to page 22
22 where I say -- it doesn't really fit with the introduction,
23 but I will say something to the effect of I will also remind
24 you about the instruction on page 22.

25 MR. NITZE: The government's concern there, if I

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1 could just articulate it further.

2 THE COURT: Yes, go ahead.

3 MR. NITZE: It's just I think it may relate to this,
4 to the extent the jury is focused on the sort of particular
5 aspect of facts as they relate to Mr. Burga, that is he
6 didn't -- the money was held for him or that's our way of
7 viewing it, but that the mere presence language that may be an
8 aspect of this that they may be thinking about is how engaged
9 was he, what exactly was his involvement, does he have to have
10 agreed to specific acts or is it enough that he agreed that
11 somebody would commit any act, that question goes a bit to
12 sort of where he sits relative to the other conspirators. So
13 a reference to mere presence sort of highlights one part of
14 the conspiracy charge, which is if you're just there you're
15 not in but there are other important instructions relative to
16 conspiracy about not needing to know all the other
17 conspirators, not needing to know specifically each of the
18 objectives, you know, there is other language that is
19 important with respect to what makes you a member of a
20 conspiracy.

21 THE COURT: Yes.

22 MR. NITZE: So the worry is to just focus on the
23 mere presence language given that that maybe one of the things
24 they're thinking about, overly highlights that one piece of
25 charge.

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1 MR. UDOLF: But if the Court is going to tell the
2 jury that basically it's okay, it's sufficient if he agreed to
3 the commission of two types of these acts, two types of wire
4 fraud or wire fraud and a money laundering, then they have to
5 evaluate that in terms of his participation with these people
6 and whether or not he agreed to it. And one of those things
7 not so much the mere presence charge but the sentence after
8 that, a person may know or be friendly with a criminal being
9 or be a criminal himself.

10 THE COURT: Well here's my compromise on this folks
11 I'm going to suggestion again that they look also at the
12 instructions regarding conspiracy, which are at pages 20
13 through 22. That presents the balanced picture of conspiracy,
14 which I understand why I think you're both right that I guess
15 this question does relate in some way to that issue as well,
16 not just how do you apply the racketeering statute and
17 instructions but rather what does it mean to be part of a
18 conspiracy to engage in racketeering acts.

19 So I think what I'll do is to have the jury or
20 reference the jury back to counts -- sorry to pages 20 to 22
21 regarding both conspiracy and the fifth element of
22 racketeering conspiracy and then focus them -- if you folks
23 want still on I guess that's pages 33 to -- I think my
24 preference would actually be not to reference them to any
25 specific pages within this instruction after I tell them 20

1 through 22 and 33 through 38.

2 Is there a reason that you both wanted to reference
3 also 33 to 34 and the first two paragraphs of 36?

4 Oh, I see. The top of 36 directly addresses this
5 issue.

6 MR. UDOLF: Right. I mean I don't really care if
7 you want to go all the way up to 38 but it seems like it would
8 be creating more confusion than anything else, but --

9 THE COURT: Here's what I propose. I propose to
10 modify this last part of it to say: I refer you to the
11 instructions concerning both conspiracy and the fifth element
12 of racketeering conspiracy on pages 20 through 22 and also 33
13 through 38 of the instructions. In particular, the bottom of
14 page 33 to the first paragraph of 34 and the first two
15 paragraphs on the top of page 36.

16 I think I might actually rephrase that to say in
17 particular, and then those pages, address the specific
18 question that you've raised but that's what I would propose.
19 So in toto it would read: I refer you to the instruction
20 concerning conspiracy and the fifth element of racketeering
21 conspiracy on pages 20 through 22 and 33 through 38 of the
22 instructions. In particular, the bottom of page 33 to the
23 first paragraph of 34 and the first two paragraphs on the top
24 of page 36 specifically address the question that you raised.
25 Is that overemphasis?

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1 MR. NITZE: I don't know if we need the part about
2 specifically addresses the question that you raised, but I'm
3 standing to make sure you're still reading the first part.

4 THE COURT: Correct, correct.

5 MR. UDOLF: Can we hear that again.

6 THE COURT: Yes. So I refer you to the instructions
7 concerning conspiracy generally and the fifth element of
8 racketeering conspiracy.

9 MR. NITZE: My apologies for interrupting. I mean,
10 the first part -- we had proposed --

11 THE COURT: No, absolutely, but I think you wanted
12 me to read just this part?

13 MR. UDOLF: No, I want the whole thing.

14 THE COURT: I'm sorry. I'll go over the whole
15 thing. With regard to your specific question as to Count One,
16 it is sufficient if the government proves beyond a reasonable
17 doubt that the defendant agreed to participate in the
18 enterprise -- you know what would be easier, folks, I'll make
19 you guys a copy of it. It seems easier for us if we all have
20 a copy. I think it will make it a little easier.

21 In addition, folks, while we are taking this break,
22 Ms. Abdallah advised me alternate number 3 wasn't able to
23 return because a close member of his family, I want to say
24 father-in-law passed away over the holiday weekend so he's no
25 longer sitting or on the -- sitting as an alternate anymore.

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1 So we have still have three alternates -- four alternates,
2 four alternates.

3 MR. NITZE: Your Honor, while we're waiting we also
4 prepared a verdict sheet --

5 THE COURT: Perfect.

6 MR. NITZE: -- and we showed it to Mr. Udolf.

7 THE COURT: I was going to ask you about that,
8 that's great. Thank you.

9 So I don't think I need to read the first page to
10 everybody, you could read it to yourselves now that you have a
11 hard copy.

12 MR. UDOLF: This doesn't have the conspiracy.

13 THE COURT: So flip to the second page -- no, right
14 exactly, I haven't added the new language yet I just want to
15 make sure we're in agreement on it before I make any changes.

16 Does anyone have any comments about the first page?

17 MR. UDOLF: No.

18 THE COURT: So the second page, as I said before, I
19 propose to add the following language: I refer you to the
20 instructions, plural, concerning conspiracy generally and the
21 fifth element of racketeering conspiracy on pages 20 through
22 22 and 33 through 38 of the instruction -- now maybe I will
23 just leave it the way it is -- comma, in particular, the
24 bottom of page 33 to the first paragraph of 34, et cetera. I
25 had proposed earlier that perhaps we put a period after the

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1 phrase 33 through 38 of the instructions and then say in
2 particular, the bottom of page 33 and then continue on to the
3 top of page 36, specifically answers the question that you
4 raised, but if people don't want that additional emphasis I'll
5 leave it the way it is.

6 MR. NITZE: That sounds fine.

7 THE COURT: Leave it the way it is except for the
8 couple of additions I mentioned based on what you wanted,
9 Mr. Udolf, to add the conspiracy law which is 20 to 22.

10 MR. UDOLF: Right.

11 THE COURT: All right. Let's bring the jury out
12 here.

13 And then when you have a chance, Mr. Udolf, take a
14 look at the revised verdict sheet so we can send that back.

15 MR. UDOLF: I have, Your Honor, it's fine.

16 THE COURT: Okay.

17 MR. NITZE: Is it Your Honor's plan to read back
18 their note and then read back this instruction?

19 THE COURT: Correct.

20 (Jury enters courtroom.)

21 THE COURT: Good morning, ladies and gentlemen, have
22 a seat. I hope you had a nice, restful and enjoyable holiday
23 weekend.

24 All right. I'm now turning to the second note that
25 you sent us on Friday which I've marked as Court Exhibit

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1 Number 21 and it reads: For Count One, if we unanimously find
2 that two specific racketeering conspiracy acts of the type or
3 types, you put an S in parentheses, named in the indictment
4 were committed by members of the conspiracy, must we find that
5 the defendant, in agreeing to participate in the conspiracy,
6 knew and intended that a co-conspirator would cause those
7 aforementioned racketeering acts to occur, or is it sufficient
8 that he knew and intended that any, underlined, two
9 racketeering acts of the type or types named in the indictment
10 would be caused by a co-conspirator.

11 And here is the response to your question:

12 With regard to your specific question as to Count
13 One, it is sufficient if the government proves beyond a
14 reasonable doubt that the defendant agreed to participate in
15 the enterprise knowing and intending that any two racketeering
16 acts of the type or types specified in the indictment would be
17 committed by a co-conspirator. But I remind you that your
18 verdict must be unanimous as to which type or types of
19 racketeering activity you find that the defendant agreed was
20 or would be committed.

21 Also, I refer you to the instructions concerning
22 conspiracy generally and the fifth element of racketeering
23 conspiracy on pages 20 to 22 and 33 through 38 of the
24 instructions. In particular, the bottom of page 33 to the
25 first paragraph of 34 and the first two paragraphs on the top

1 of page 36.

2 I also remind you that you should not single out any
3 one instruction as alone stating the law but should consider
4 my instructions as a whole.

5 Okay, so with that we will send you back to your
6 deliberations and thank you very much, ladies and gentlemen.

7 THE COURTROOM DEPUTY: All rise.

8 (Jury exits courtroom.)

9 THE COURT: Have a seat, everyone. With the
10 agreement of the parties we'll send back the revised verdict
11 sheet which will be marked Court Exhibit Number 22; is that
12 right, Fida.

13 THE COURTROOM DEPUTY: Twenty-four.

14 THE COURT: Twenty-four.

15 THE COURTROOM DEPUTY: Twenty-two and 23 were notes.

16 THE COURT: Okay. So Court Exhibit Number 24 will
17 be the revised verdict sheet.

18 (Court Exhibit 24, was received in evidence.)

19 THE COURT: And then just one other note for
20 everyone, it's really nothing we can do about it, but there
21 isn't a CSO available to watch over the alternate jurors. We
22 haven't had any issues though at all and they are obviously --

23 THE COURTROOM DEPUTY: On a separate floor.

24 THE COURT: -- on a separate floor from the regular
25 jurors and also they are not in any public area. So they have

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1 been here every day since over a week now so they pretty much
2 know what the rules and drill are and they've been extremely
3 cooperative and compliant.

4 MR. UDOLF: That doesn't present an issue as far as
5 we're concerned, Your Honor.

6 THE COURT: Excuse me?

7 MR. UDOLF: That doesn't present any issue as far as
8 we're concerned.

9 THE COURT: Thank you very much, Mr. Udolf.

10 All right. You're free to go, but just make sure
11 that Ms. Abdallah has your cell phone numbers, if she doesn't
12 already.

13 (Pause.)

14 THE COURT: Okay, well, proves the rules of jurors
15 are much more efficient than we give them credit for. I will
16 read this, it is short but you will get a copy as well and it
17 will be marked Court Exhibit Number 25. However, I think we
18 first need to send back 24, which is the verdict sheet because
19 the note reads: The jury has a verdict.

20 You need to go?

21 MR. UDOLF: I need to go to the restroom.

22 THE COURT: Okay. Go ahead.

23 Ms. Abdallah will bring the verdict sheet back to
24 them.

25 (Court Exhibit 25, was received in evidence.)

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1 (Pause.)

2 THE COURT: In light of the note we received, I'm
3 going to just call the jury out to deliver their verdict. So
4 they have the page, obviously they'll fill it out and bring it
5 with them.

6 What happened to Mr. Udolf.

7 THE COURTROOM DEPUTY: He went to the bathroom
8 that's why we're waiting.

9 THE COURT: Sorry.

10 MR. UDOLF: Your Honor, before we bring the jury
11 back it occurs to me that the jury couldn't possibly have
12 looked at all the citations to the jury's charge -- to the
13 Court's charge rather in the time that they were out, which is
14 about 60 seconds by my count. We would ask for a mistrial, in
15 the alternative we would renew our motion for directed
16 verdict.

17 THE COURT: I'm going to deny the mistrial. I do
18 note that there was probably a minute between the time I
19 instructed them and they left the courtroom and they returned
20 with a note. However, they didn't necessarily have to review
21 the instruction citations I gave them. They could have, quite
22 frankly, because we took about 40 minutes to discuss the
23 instruction itself, they could have resolved the issue
24 themselves even before I instructed them at all in response to
25 their note. And also they could have taken the first page

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1 answer -- or the answer that was on the first page as what
2 they needed to hear because it was a direct answer to their
3 question. All of those are possibilities. The bottom line is
4 they didn't have to do anything further in terms of the
5 instructions I gave them. They could have come up with the
6 answer on their own and it would be entirely valid and within
7 their province to do so, so I'm going to deny the request for
8 a mistrial. I don't find anything inappropriate even assuming
9 that they had reached the conclusion even before I gave them
10 the additional instructions.

11 Do you want to say anything, Mr. Nitze?

12 MR. NITZE: Just to also add, that the jury has had
13 a charge and clearly is a jury that continues to work even as
14 they wait for responses and they did have quite a fair amount
15 of time last week before the break to continue to deliberate
16 and talk and work through the charge. So it's entirely
17 possible that this jury, which has been, as everybody
18 acknowledged, conscientious and hard working worked through
19 some of these issues even before they arrived here this
20 morning.

21 THE COURT: Right. And I think it's certainly
22 likely they looked at the instructions while they were waiting
23 for us to get back to them, which as I said took us about 40
24 minutes from the time they arrived or maybe a half an hour
25 from the time they arrived. So according to my deputy they

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1 got here around nine and were all gathered. We didn't get
2 them any response until about 9:40 or so, so it seems
3 perfectly logical and reasonable to infer that they looked at
4 the instructions and figured out the answer or just figured
5 out the answer themselves. Okay.

6 (Jury enters courtroom.)

7 THE COURTROOM DEPUTY: All rise.

8 THE COURT: Welcome back, ladies and gentlemen, have
9 a seat. I received your latest note, which has been marked
10 Court Exhibit Number 25 and reads: The jury has a verdict.

11 Ms. Abdallah has just handed up to me the verdict
12 sheet which was marked as Court Exhibit Number 24 and it is
13 the verdict sheet for defendant Manuel Burga.

14 All right. I'm going to have Ms. Abdallah hand it
15 back to the foreperson. If you'll rise, Mr. Foreperson. As
16 to Count One, racketeering conspiracy as to defendant Manuel
17 Burga, how do you find guilty or not guilty?

18 THE FOREPERSON: Not guilty.

19 THE COURT: Thank you very much. You can take that
20 back.

21 Would anyone like the jury to be polled?

22 MR. NITZE: Yes, Your Honor.

23 THE COURT: Okay.

24 Juror Number 1, is that your verdict?

25 JUROR NUMBER 1: Yes, Your Honor.

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1 THE COURT: Juror number 2?

2 JUROR NUMBER 2: Yes, Your Honor.

3 THE COURT: Juror number 3?

4 JUROR NUMBER 3: Yes, Your Honor.

5 THE COURT: Juror number 4?

6 JUROR NUMBER 4: Yes, Your Honor.

7 THE COURT: Juror number 5?

8 JUROR NUMBER 5: Yes, Your Honor.

9 THE COURT: Juror number 6?

10 JUROR NUMBER 6: Yes, Your Honor.

11 THE COURT: Juror number 7?

12 JUROR NUMBER 7: Yes, Your Honor.

13 THE COURT: Juror number 8?

14 JUROR NUMBER 8: Yes, Your Honor.

15 THE COURT: Juror number 9?

16 JUROR NUMBER 9: Yes, Your Honor.

17 THE COURT: Juror number 10?

18 JUROR NUMBER 10: Yes, Your Honor.

19 THE COURT: Juror number 11?

20 JUROR NUMBER 11: Yes, Your Honor.

21 THE COURT: Juror number 12?

22 JUROR NUMBER 12: Yes, Your Honor.

23 THE COURT: Thank you very much. You have our

24 deepest gratitude for your service, which has been

25 extraordinary especially given the time of year and the length

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1 of your service.

2 I know that the parties appreciate your diligence,
3 attention and dedication to reaching a just verdict in this
4 case, so you have our thanks.

5 Happy new year to everyone. Enjoy the rest of the
6 holiday season and we will let you return to the jury room.
7 Thank you again.

8 THE COURTROOM DEPUTY: All rise.

9 (Jury exits courtroom.)

10 THE COURT: Folks, I am going to ask you to sit
11 tight for just a minute, I want to go back and talk to the
12 jury very briefly. It is my custom always to thank them and
13 in a trial this length I particularly want to let them know
14 how extraordinary their service really was.

15 I, of course, will not talk about the case at all.
16 I will tell them if they are approached by either party they
17 have the choice to speak to them or not, just so you know.

18 Also, we're going to gather together the alternates
19 so they can be rejoined with the regular jury.

20 If you folks just stay here for just a minute, I
21 want to make sure we don't have any remaining issues. It
22 won't take very long.

23 (Pause.)

24 THE COURT: Thanks for being patient.

25 MR. NITZE: Mr. Udolf is not here. I was having a

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1 chat for them and getting suggestions on how we can improve
2 the system. They had one very good suggestion which is I
3 should tell them before summations that they're not going to
4 be able to get a copy of the summations sent back to them
5 because some of them stopped taking notes, they said, during
6 Ms. Mace's summation because they figured they could get a
7 copy and then they were sorely disappointed when I told them
8 that they weren't going to it.

9 Some of the jurors are willing to speak to people.
10 I didn't know if anybody wanted to so the invitation is open
11 to you to go back there if you'd like to speak to them.
12 They're waiting to get their certificates of service, so they
13 are here. I know that's always fraught, I leave it to your
14 choice.

15 Is there anything I need to address with those
16 parties that are here? We, obviously have a briefing schedule
17 relating to the other defendants.

18 MR. UDOLF: There's the issue of his passport.

19 THE COURT: Pretrial services has it right?

20 MR. BURGA: No, FBI, I gave it to the FBI.

21 THE COURT: The FBI agent looks surprised.

22 MR. CALLAHAN: I am.

23 MR. NITZE: We will look into it.

24 THE COURT: Why don't you talk with the government
25 whoever has it should return it and then if there is some

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1 issue I'm here all day, obviously call me. Or if it's
2 pretrial services, we will try to locate someone. That would
3 be the norm actually.

4 MR. UDOLF: Obviously he would like to get back to
5 his family immediately.

6 THE COURT: For sure.

7 Nice to see you, Ms. Estama, perhaps you are a good
8 luck charm of some sort --

9 MS. ESTAMA: Thank you.

10 THE COURT: Aside from being a very good lawyer. I
11 didn't me to reduce you to a lucky charm.

12 MR. BURGA: Thank you very much. Can I approach the
13 bench? Thank you very much, Judge, pleasure.

14 THE COURT: Good travels.

15 MR. BURGA: Thank you, Ms. Abdallah.

16 THE COURT: Mr. Udolf, do you want to speak to
17 anyone? I just want to know so I can tell them not to wait
18 for you folks.

19 MR. UDOLF: I wouldn't mind talking to them if they
20 would be willing. I don't usually do it. I never had --
21 we're not allowed to do it in the Southern District of
22 Florida.

23 THE COURT: You may want to be present then I
24 assume?

25 MS. MACE: No, but we just note that the ruling with

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1 regard to anonymity should stay in place, and Mr. Udolf should
2 certainly not disclose the identity of any of the jurors.

3 MR. UDOLF: I wouldn't do that.

4 THE COURT: No. And, quite frankly, I will probably
5 go back with you just to make sure we don't have any issues.

6 Ms. Estama, you're coming back too?

7 MS. ESTAMA: Yes, please.

8 MR. BURGA: I'm not going.

9 THE COURT: I would suggest just maybe the lawyers,
10 if anyone. Okay.

11 (Whereupon, the trial concluded at 10:25 a.m.)
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